

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
WACO DIVISION**

WSOU INVESTMENTS, LLC d/b/a
BRAZOS LICENSING AND
DEVELOPMENT,

Plaintiff,

v.

MICROSOFT CORPORATION,

Defendant.

Civil Action No. 6:20-cv-454

**DECLARATION OF JOHN W. MCBRIDE IN
SUPPORT OF MICROSOFT CORPORATION'S MOTION TO DISMISS
PURSUANT TO FEDERAL RULE OF CIVIL PROCEDURE 12(B)(6)**

I, John W. McBride, declare:

1. I am a partner with the law firm of Sidley Austin LLP, representing Defendant Microsoft Corporation (“Microsoft”) in this matter. I am a member in good standing of the bar of Illinois, and admitted to practice in the Western District of Texas. The facts stated herein are true of my own personal knowledge and, if called as a witness, I could and would testify competently thereto. I made this declaration solely in support of Microsoft’s motion to dismiss.

2. Attached hereto as **Exhibit A** is a true and correct copy of a Response to Non-Final Office Action dated June 12, 2007, from the publicly available file history of U.S. Patent No. 7,366,160.

3. Attached hereto as **Exhibit B** is a true and correct copy of an excerpt, containing sections titled Azure Monitor Overview and Azure Monitor Frequently Asked Questions, that was accessed on June 5, 2020 shortly after the complaint was filed on June 2, 2020. The URLs at paragraphs 25 and 46 of the complaint are non-functional and were not functional on June 5,

2020. As such, the “Azure Network Monitor” document cited in paragraphs 25–29, 31–42 was not accessible at least as of June 5, 2020. However, based on the comparable (but not identical) text of the URLs and content of the screenshots, the Azure Network Monitor document appears to be a document that was obtainable through the “Download PDF” feature of the Azure Monitor Documentation webpage. *See* <https://docs.microsoft.com/en-us/azure/azure-monitor/> (lower left corner, last accessed September 2, 2020). On June 5, 2020, counsel for Microsoft obtained a 3340-page document via the same “Download PDF” feature of the Azure Monitor Documentation webpage. Exhibit B is an excerpt of two sections of that document, and appears to contain the screenshots cited in at least paragraphs 25 and 26 of the complaint. *See* Ex. B, at 1 & 10. Page numbers were added to assist with navigation of the document.

4. Attached hereto as **Exhibit C** is a true and correct copy of an excerpt, titled Supported Metrics with Azure Monitor, from the 3340-page PDF that was accessed on June 5, 2020 for the reasons, and pursuant to the process, described in paragraph 3 of this declaration. Exhibit C appears to contain the screenshots cited in paragraph 37 of the complaint. *See* Ex. C, at 28–29 & 121. Page numbers were added to assist with navigation of the document.

I declare under penalty of perjury that the above is true and correct.

Executed: September 3, 2020



John W. McBride